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15 UNITED STATES DISTRICT COURT

16 NORTHERN DISTRICT OF CALIFORNIA

17 SAN FRANCISCO DIVISION

18 SALLY BURKHART, on behalf of herself, )

No. C 07-5467 PJH

19 THE ESTATE OF DAVID BURKHART, )

**STIPULATION AND [PROPOSED  
ORDER] TO EXTEND DEADLINES**

20 by and through Sally A. Burkhart as the )

personal representative; and DAVID T. )

BURKHART, on behalf of himself, )

21 Plaintiffs, )

22 v. )

23 UNITED STATES OF AMERICA; and )

24 DOES 1 to 50, )

25 Defendants. )

26 **STIPULATION**

- 27 1. On October 30, 2008, plaintiff Sally Burkhart, informed counsel for defendant that she  
28 has retained counsel, Nancy Battel, to represent her at deposition and mediation in the above-

**1** captioned action. Ms. Battel has not filed a notice of appearance with the Court and has  
**2** informed defendant's counsel that she does not intend to file a notice of appearance.

3       2. On October 27, 2008, the parties scheduled a mediation through the Court's ADR  
4 program for November 21, 2008. On October 31, 2008, the mediator informed the parties that  
5 she has a conflict that cannot be waived under the Court's conflict rules and requested that the  
6 ADR Program assign another mediator to the case. On November 13, 2008, the ADR Program  
7 filed a notice of appointment of a new mediator.

8       3. Given that Ms. Burkhart has obtained new representation in this case and that a new  
9 mediator has recently been assigned, the parties have agreed to stipulate to extend the fact and  
10 expert discovery deadlines, and the deadlines for completing mediation and for dispositive  
11 motions.

12       4. Defendant has previously filed an administrative motion requesting an extension of the  
13 deadline for completing mediation on May 13, 2008. Defendant requested an extension because  
14 Ms. Burkhart indicated that she was in the process of securing legal representation and the ADR  
15 Program informed the parties that it would be unable to appoint a mediator while Ms. Burkhart's  
16 attorney search continued because potential mediators would be unable to complete a conflicts  
17 check. On May 14, 2008, the Court granted the motion, extending the deadline from June 4,  
18 2008 to 90-days following the Court's order on the defendant's motion to dismiss.

19       5. On August 7, 2008, the parties stipulated to a second extension of the deadline for  
20 completing mediation due to the addition of Mr. Burkhart as a party to the case, the filing of a  
21 first amended complaint and because defendant's motion to dismiss the first amended complaint  
22 was still pending. On August 8, 2008, the Court filed an order extending the deadline for  
23 completing mediation to 90-days following the Court's order on the defendant's motion to  
24 dismiss the first amended complaint.

25        6. Currently, the deadlines for discovery, completion of mediation, and dispositive motions  
26 are as follows:

27 | Expert Disclosures: November 3, 2008

**28** || Deadline for Expert Rebuttals: November 17, 2008

Deadline for Completing Mediation: November 24, 2008

All discovery cut-off: December 15, 2008

Last day to hear dispositive motions: February 4, 2009

Pre-trial date: May 7, 2009

Trial date: June 1, 2009

6. The deadline for expert disclosures was November 3, 2008. Defendant timely provided its expert disclosures on November 3, 2008.

7. At plaintiffs' request, defendant has agreed that plaintiffs will have until December 31, 2008 to provide their expert disclosures. The parties agree that plaintiffs will seek no further extension of the expert disclosure deadline. The parties agree that defendant may supplement or add to its expert disclosures by December 31, 2008.

8. The parties respectfully stipulate to the following new discovery, mediation, and dispositive motions deadlines:

Expert Disclosures: December 31, 2008

Deadline for Expert Rebuttals: January 28, 2009

Fact Discovery Cut-off: January 30, 2009

Expert discovery cut-off: February 18, 2009

Deadline for Completing Mediation: March 3, 2009

Last day to hear dispositive motions: April 15, 2009

Pre-trial Date: July 16, 2009

Proposed Trial Date: August 24, 2009

## IT IS SO STIPULATED.

DATED: December 15, 2008

Respectfully submitted,

**JOSEPH P. RUSSONIELLO**  
**United States Attorney**

/s/  
JENNIFER S WANG  
Assistant United States Attorney

1 DATED: December 12, 2008

/s/  
Sally Burkhart  
Plaintiff in *Pro Se*

4 DATED: December 11, 2008

/s/  
David T. Burkhart  
Plaintiff in *Pro Se*

7 **[PROPOSED] ORDER**

8 Pursuant to the parties' stipulation, and good cause having been shown, it is ordered that:

- 9 1. Plaintiffs must provide expert disclosures by December 31, 2008. Defendant may  
10 supplement or add to its expert disclosures by December 31, 2008.
- 11 2. The deadline for disclosure of rebuttal experts is January 28, 2009.
- 12 3. The fact-discovery cut-off is January 30, 2009.
- 13 4. The expert discovery cut-off is February 18, 2009.
- 14 5. The deadline for completing mediation is March 3, 2009.
- 15 6. The last day to hear dispositive motions is April 15, 2009.
- 16 7. The pre-trial date is July 16, 2009.
- 17 8. The trial date is August 24, 2009.

18 IT IS SO ORDERED.

19 Dated: December 15, 2008

